



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN**C.R.P. (PD) (MD) No.1252 of 2018**
and C.M.P. (MD) No.5273 of 20181. Ayyadurai ... Petitioner/3rd Petitioner/18th Defendant

-vs-

1. Arumugam @ Thangapandi

2. Mrs.Ganapathiammal

3. S.Lakshmi ... Respondents 1 to 3/Petitioners 1,2,4
/Defendants 13,15 & 24. A.Balasubramanian ... 4th Respondent/1st Respondent/Plaintiff

5. A.Petchiammal

6. Jayalakmi

7. Madasamy

8. Petchiammal

9. A.Gopal

10. Paramasivam

11. Muthaiah @ Muthukrishnan

12. Saraswathy

13. Krishanmmal @ Kittu

14. Sundari

15. Subhammal @ Kupppammal

16. P.M.Kumaran

17. Gomathy

18. K.Muppidathy Ammal

19. A.Ganapathy Ammal

20. Govindaraman

21. Shanmugathai

22. G.Chandra

23. Petchiammal ... Respondents 5 to 23/Respondents 2 to 20 /
Defendants 1 to 12, 14, 16, 17, 19, 20, 21 & 23

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order in I.A.No.1293 of 2017 in O.S.No.440 of 2011 on the file of I Additional District Munsif Court, Tirunelveli dated 10.01.2018.

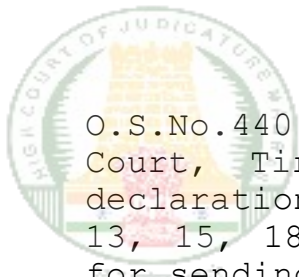
For Petitioners : Mr.P.T.Thiraviam

For R1 to R3 : No Appearance

For R4 : Mr.A.Immanuel

For R5 to R23 : No Appearance

O R D E RThe Revision Petitioner is the 18th defendant in the suit in



O.S.No.440 of 2011 on the file of I Additional District Munsif Court, Tirunelveli and in the suit, the plaintiff sought for declaration, etc. During pendency of the suit, the defendant Nos. 13, 15, 18 and 21 had filed an application in I.A.No.1293 of 2017 for sending the documents and bundles in O.S.No.572 of 1996 from the Principal Sub Court Record, Tirunelveli and the said application was dismissed on the ground that the application was filed only to drag on the proceedings. Aggrieved by the said finding, the petitioner / 18th defendant is before this Court.

2. It is the case of the petitioner that the suit had been initiated by the plaintiff by way of second round of litigation and since all the relevant documents had been filed along with the previous suit in O.S.No.572 of 1996, the petitioner along with other defendants applied for the copies of the documents before the Court Record under Copy Application Memo No.8998 of 2017 dated 20.10.2017, their efforts ended in vain. It is the further case of the petitioner that unless those documents were brought on record with respect to the present suit, they would be put to irreparable loss and hardship and therefore, it is prayed that since the documents are just and necessary to decide the fate of the suit, the order of the Trial Court is to be set aside, thereby directing the concerned Record Section to furnish copies of all documents to the petitioner.

3. Per contra, learned counsel for the 4th respondent / plaintiff would contend that from the deposition of one Dakshinamoorthy in O.S.No.572 of 1996 during cross examination, it was revealed that the issue revolved around Patta No.514 and not Patta No.574 and when the deposition was very obvious, there is no necessity to call for the entire documents. He would further contend that the attempt of the petitioner is only to dillydally the suit proceedings by way of dilatory tricks. Hence, it is prayed that this petition is liable to be dismissed.

4. Heard the learned counsel for the petitioner and the learned counsel for R4. This Court also perused the material documents available on record.

5. A perusal of the averments in the petition would unfold the fact that previously a suit was filed in O.S.No.572 of 1996 and the said suit was stated to have been decreed in favour of the petitioner and other defendants. Subsequently, the 4th respondent/plaintiff has initiated yet another suit by means of second round of litigation, in which, according to the petitioner, he was not able to defend his case effectively for want of documents, which were filed in the previous suit. When he approached the concerned Record Section of the Court below, he received only evasive reply, which forced him to prefer an application for transmitting the entire documents to the Court dealing with O.S.No.440 of 2011.

<https://hcservices.ecourts.gov.in/hcservices/>

6. In the petition itself, it was averred that the case is



posted for petitioners/defendants side evidence. The documents sought for were related to the previous suit of the year 1996 and naturally, after a lapse of more than 20 years, it would be highly impossible to trace out those documents. Therefore, any attempt to trace out the same would definitely be a futile exercise and it will not give quietus to the issue.

7. In view of the foregoing discussions and observations, this Court is of the view that the finding of the Trial Court is perfectly valid and it does not call for any interference by this Court.

8. In the result,

a) this Civil Revision Petition is dismissed, thereby confirming the order dated 10.01.2018 passed in I.A.No.1293 of 2017 in O.S.No.440 of 2011 by the learned I Additional District Munsif, Tirunelveli;

b) the petitioner is at liberty to obtain a certified copy of "A" and "B" series marked in O.S.No.572 of 1996 and produce the same before the learned I Additional District Munsif, Tirunelveli within a period of eight weeks from the date of receipt of a copy of this order and on its production, learned I Additional District Munsif, Tirunelveli is directed to proceed with the suit in O.S.No.440 of 2011 and dispose of the same within a period of three months thereafter;

c) it is made clear that if the certified copy is not produced by the petitioner within the stipulated time, the Trial Court shall proceed with the case on merits and based on the available documents, without waiting for the same.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RECORDS)

/True Copy/

Sub Assistant Registrar(CS-IV)

ar

To:

1.The I-Additional District Munsif,
Tirunelveli.

2.The Record Keeper, V.R.Section (2 copies)
Madurai Bench of Madras High Court,



+1cc to Mr.P.T.Thiraviam, Advocate in SR No.73714
+1cc to Mr.A.Immanuel, Advocate in Sr No.73362

C.R.P. (PD) (MD) No.1252 of 2018

WEB COPY

NM/RSK/SAR 4/05.10.18/4P/5C